IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 923 of 2002
With
CROSS OBJECTION No. 123 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NEW INDIA ASSURANCE CO LTD. - Appellant(s)
Versus
NARMADABEN HARIBHAI SUTHAR. (WIDOW OF DECEASED.) & 4 - Defendant(s)

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Appearance :

MR VIBHUTI NANAVATI for Appellant(s) : 1,
None for Defendant(s) : 1,
NOTICE SERVED for Defendant(s) : 1.2.1, 1.2.2, 1.2.3, 1.2.4,1.2.5 - 3.
MR HARSHIT S TOLIA for Defendant(s) : 1.2.1, 1.2.2, 1.2.3, 1.2.4,1.2.5

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 19/01/2012

ORAL JUDGMENT

1. This appeal has been preferred against the judgment and award dated 09.01.2002 passed by the Motor Accident Claims Tribunal, Banaskantha at Palanpur in M.A.C.P. Misc. Application No.09/2001 whereby, the claim petition was partly allowed and respondents no.1/1 to 1/5 herein, original claimants, were awarded total compensation of Rs.2,75,800/- along with interest at the rate of 9% per annum from the date of application till its realization with proportionate costs.

2. Respondents no.1/1 to 1/5, heirs and legal representatives of deceased Haribhai Kamabhai Suthar, filed the claim petition u/s.163-A of the M.V. Act in connection with the vehicular accident that occurred on 24.06.2001 at about 1730 hrs. near Panchayat Office of Village Shiya, Taluka Kankrej, District Banaskantha. The accident involved a Tractor bearing registration No. GJ-8D-3034 belonging to original opponent no.2 and insured with the appellant-Insurance Company. The said claim petition came to be partly allowed by way of the impugned award. Against the said award, the appellant has preferred the present appeal.

3. Heard learned counsel for the appellant and learned counsel for respondent-original claimants. The claim petition was filed u/s. 163-A of the M.V. Act and therefore, the issue regarding negligence is not required to be looked into. So far as the quantum of compensation is concerned, it appears that the Tribunal has assessed the monthly income of the deceased at Rs.2,400/- after considering the fact that the deceased was a skilled Carpenter. In my opinion, the said assessment made by the Tribunal is just and appropriate. On that basis, the Tribunal awarded Rs.2,68,800/- by adopting the formula prescribed in the Second Schedule to Section 163-A of the M.V. Act. Considering the facts of the case and the evidence on record, I am of the view that the compensation awarded by the Tribunal is just, legal and appropriate. I am in complete agreement with the reasonings given by the Tribunal while passing the impugned award and hence, find no reasons to entertain this appeal. In view of the above discussion, the cross-objections are not entertained.

4. For the foregoing reasons, both the appeal and cross-objections stand dismissed. No order as to costs.

[K. S. JHAVERI, J.]

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